

REMARKS

This response is submitted in reply to the Office Action dated October 24, 2005. Claims 9-26 currently stand rejected and are the only pending claims in the application.

In light of the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present invention.

Claim Rejections - 35 USC §102

Claim 26 currently stands rejected under 35 U.S.C. §102(b) as being anticipated by Skala (U.S. Patent No. 5,027,432). Applicant respectfully traverses.

In the context of a cellular radio communication system, independent claim 26 recites, *inter alia*, a decision unit determining vehicle-specific conditions over a time period of vehicle operation and converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle. In other words, the vehicle-specific conditions are considered with respect to a period of time in order to create the driving profile. Thus, for example, the vehicle-specific condition may be measured in terms of a dynamic, rather than static feature only. Accordingly, an exemplary embodiment of the claimed invention according to independent claim 26 is capable of measuring a vehicle-specific condition over a time period and as such creates a driving profile based on, for example, how speed has changed during the time period rather than based simply on the current speed.

Skala is directed to a device for controlling the output volume of a car audio system based on the **current** speed of a motor vehicle. It is clear from the cited passages of Skala, namely col. 3, lines 42-49 & 59-67 and col. 4, lines 3-6 & 26-28, and indeed from the entirety of the Skala disclosure, that the output volume is based upon a current driving condition (i.e., current vehicle speed) and does not consider a history of the vehicle speed (i.e., vehicle speed over a time period) for purposes of controlling the output volume. Thus, Skala fails to teach or suggest determining vehicle-specific conditions over a time period as claimed in independent claim 26. Furthermore, Skala discloses that the different volume levels are programmed into memory to correspond to different vehicle speeds (col. 3, line 59 to col. 4, line 14). Thus, Skala

teaches a direct conversion from the speed signal V to a corresponding volume based on the programming. Since the conversion of Skala is directly performed, Skala fails to teach or suggest **converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle** as claimed in independent claim 26. If one were to argue that the vehicle-specific condition of Skala is analogous to speed signal V, then a question begs to be asked as to what the speed is converted into? Skala discloses at best that the vehicle speed V is converted into a corresponding output volume. The output volume cannot be fairly argued to correspond to a driving profile indicating an actual driving situation of the vehicle. Accordingly, Skala fails to teach or suggest **a decision unit determining vehicle-specific conditions over a time period of vehicle operation and converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle** as recited in independent claim 26. Therefore, independent claim 26 is patentable over Skala.

Accordingly, Applicants respectfully submit that the rejection of claim 26 is overcome.

Claim Rejections - 35 USC §103

Claims 9-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Skala in view of Oda (U.S. Patent No. 6,393,301).

It is respectfully submitted that independent claims 9 and 25 contain similar recitations to independent claim 26 with respect to **determining vehicle-specific conditions over a time period of vehicle operation and converting the vehicle-specific conditions into a driving profile**. Thus, as stated above, Skala fails to teach or suggest **determining vehicle-specific conditions over a time period of vehicle operation and converting the vehicle-specific conditions into a driving profile** as claimed in independent claims 9 and 25. Furthermore, both independent claims 9 and 25 further recite, *inter alia*, **that operating states of the operable device are blocked or released according to whether the actual driving situation is dangerous**. The Office Action concedes that Skala fails to teach or suggest this feature. Accordingly, the Office Action cites Oda as teaching such feature at col. 4, lines 9-25 & TABLE. However, the cited passage of Oda and the corresponding TABLE do not address blocking operable states of the operable device according to whether the actual driving situation is dangerous. In fact, Oda discloses that the operation

modes listed in the table can preclude accident occurrence since the driver does not have to handle the phone (col. 4, lines 9-14 and lines 53-55). Accordingly, Oda does not teach blocking operation of the device, but rather a mode change regarding operation to allow the driver to operate hands free with respect to the communication device for accident preclusion. Furthermore, Oda does not address disclose any determination of a dangerous **actual** driving situation. Rather, Oda simply seeks to prevent accidents via hands free operation of the communication device. Accordingly, Oda fails to teach or suggest that operating states of the operable device are blocked or released according to whether the actual driving situation is dangerous as claimed in independent claims 9 and 25. Oda also fails to teach or suggest determining vehicle-specific conditions over a time period of vehicle operation and converting the vehicle-specific conditions into a driving profile as claimed in independent claims 9 and 25 and is not cited as such.

Thus, both Skala and Oda alone fail to teach or suggest both determining vehicle-specific conditions over a time period of vehicle operation and converting the vehicle-specific conditions into a driving profile and that operating states of the operable device are blocked or released according to whether the actual driving situation is dangerous as claimed in independent claims 9 and 25. Accordingly, any combination of the cited references also fails to render independent claims 9 and 25 obvious for at least the same reasons described above.

Independent claim 10 contains similar recitations to those of independent claim 9 with respect to determining vehicle-specific conditions over a period of time and blocking or releasing operable states of the operable device, and thus independent claim 10 is patentable for at least those reasons given above for independent claim 9.

Claims 11-24 depend either directly or indirectly from either independent claim 9 or 10, and thus include all the recitations of their respective independent claims. Therefore, dependent claims 11-24 are patentable for at least those reasons given above for independent claims 9 and 10.

Accordingly, Applicants respectfully submit that the rejections of claims 9-25 are overcome.

CONCLUSION

In view of the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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